

INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

Independent Review Process Panel

Namecheap, Inc.

Claimant,

Case Number: 01-20-0000-6787

- and -

Internet Corporation for Assigned Names
and Numbers (ICANN)

Respondent.

PROCEDURAL ORDER NO. 3

1. On December 2, 2020, at 8:00 am Pacific Time, a hearing in the above-captioned arbitration was held by Zoom videoconference, as previously scheduled in Procedural Order No. 2. The following individuals participated:

Flip J. Petillion (Petillion, Huizingen, Belgium), counsel for Claimant,
Namecheap, Inc. ("Namecheap" or "Claimant")
Jan Janssen (Petillion, Huizingen, Belgium), counsel for Claimant
Jeffrey A. LeVeé (Jones Day, Los Angeles, CA), counsel for Respondent, Internet
Corporation for Assigned Names and Numbers ("ICANN" or "Respondent")
Kelly Ozurovich (Jones Day, Los Angeles, CA), counsel for Respondent
Casandra Furey (Associate General Counsel, ICANN)
Amy A. Stathos (Deputy General Counsel, ICANN)
Glenn P. Hendrix, Chairman of the Independent Review Panel (the "Panel")
Grant L. Kim, Panel Member
Christof Siefarth, Panel Member
Tom Simotas, International Centre for Dispute Resolution ("ICDR")

The hearing was adjourned at approximately 11:30 am Pacific Time. By agreement of the parties, the hearing was recorded.

2. The hearing was primarily focused on the parties' cross motions to compel disclosure. Those motions will be addressed in a separate order, except that ICANN will produce final versions of reports commissioned by ICANN on price controls, competition and vertical integration on or before December 23, 2020.

3. In addition, ICANN requested leave from the Panel to submit a motion to dismiss Namecheap's IRP Request on the bases that: 1) Namecheap is not a proper "Claimant" under ICANN's Bylaws in that it has not "suffer[ed] an injury or harm that is directly and causally connected to the alleged violation"; and 2) the allegations in the IRP Request regarding a previously contemplated change of control of the registry operator of the .org domain (Public Interest Registry) are moot because ICANN has since decided not to consent to that change of control.

4. The Panel granted leave for ICANN to file the motion to dismiss on the following schedule:

- ICANN will file the motion and supporting brief on or before January 8, 2021.
- Namecheap will file its response on or before January 22, 2021.

Both briefs shall be limited to 25 pages (excluding exhibits).

5. On or before December 16, 2020, Namecheap will make an evidentiary submission—presumably in the form of an affidavit with exhibits—articulating the harm that supports its claim of standing under the ICANN Bylaws.

6. The Panel will conduct a hearing on the motion to dismiss on February 3, 2021 at 8:00 am Pacific Time via Zoom videoconference. The Zoom meeting coordinates will be issued by the ICDR in advance of the hearing.

7. The provisions of the preceding Procedural Orders remain effective.

8. In the event this Order reflects that the parties have agreed upon any provision set forth herein, but one or more of the parties do not in fact so agree, such party or parties shall so advise the Panel within three business days of this Order.

**As at Los Angeles, California, USA
December 3, 2020**

FOR THE PANEL:



**Glenn P. Hendrix
Chair**